Procedure for referring the appeal proposals under Section 18 of Land Acquisition Act, 1894 to Law & Judiciary Department.

Government of Maharashtra
Law & Judiciary Department
Circular No.:474/M

Madam Cama Road, Hutatma Rajguru Chowk,

Mantralaya, Mumbai-400032

Date: 22nd August, 2017

Read -

1. **Revenue & Forest Department's Government Resolution No.: संकीर्ण-2014/प्र.क्र.41/भाग-1/अ-4, dtd.3/11/2016.**
2. **Revenue & Forest Department's Government Resolution No.: संकीर्ण-2014/प्र.क्र.41/भाग-1/अ-4, dtd. 4/5//2017**
3. **Revenue & Forest Department's Government Resolution No.: संकीर्ण-2014/प्र.क्र.41/भाग-1/अ-4, dtd. 23/2/2017**

It is noticed that the appeal proposals in land acquisition matters under Land Acquisition Act, 1894 are addressed/ directly referred to the Law & Judiciary Department by the Government Pleaders, Mumbai & District Government Pleaders.

2. As per the procedure given in the above Rule 35 of the Rules for the Conduct of the Legal Affairs of the Government, 1984, the concerned Law Officer (Government Pleader) is required to forward the report to the Collector or to the concerned Government Officer as well as to the Remembrancer of Legal Affairs or the Joint secretary at Nagpur or Aurangabad, as the case may be, along with his opinion regarding the feasibility of filing of appeal in higher court. In fact the Remembrancer of Legal Affairs or the concerned Joint secretary at Nagpur or Aurangabad, are expected to receive proposals for examining feasibility of appeal to be filed either from Collector or the concerned SLAO or from the concerned Administrative department. However, to avoid delay for filing appeals and considering inconvenience caused to the Officers in recent past, this Department followed the practice of not waiting for the proposal or remarks from the Collector or concerned Department, for more than 15 days. If no proposal/remark is received within 15 days, this Department has been examining the proposal received from the Government Pleader and informing its decision to the concerned SLAO and Government Pleader.

3. Now, the Revenue & Forest Department has issued a Government Resolution No. संकीर्ण-2014/प्र.क्र.41/भाग-1/अ-4, dtd.3/11/2016 prescribing criteria and procedure for filing of appeal against orders passed by the Civil Court in the land acquisition matters referred under Section 18 of the Land Acquisition Act, 1894.

4. However, in the above Resolution, the Revenue Department has cast a duty on the Collector/concerned Administrative Department to examine the rate awarded by the Reference Court in the manner prescribed in Clause 1 of the resolution and if the matter fulfills the parameters of the said Clause 1 then in such matters appeal should not be filed. In Clause 3 of the said Government Resolution. it is made clear that the cases which do not fall in Clause 1 only can be referred for examination of their feasibility of filing appeal in the higher Court. Therefore, now it has become necessary to discontinue the practice stated in above para 2.

5. Now, hereinafter, the Government Pleaders are required to submit their report to the Collector or concerned Administrative Department so as to facilitate the latter to examine whether the case falls in Clause 1 of said Government. The Collector or the concerned Department hereinafter should certify that, the case does not fall under Clause 1 of the said Government Resolution before making reference to this Department. Proposal without certification shall not be accepted by this Department. Cases only falling under Clause 3 of the Government Resolution be referred to this Department for consideration.

6. It is to be noted that, the proposals which have been received by this department either from Government Pleader or Collector after the said Government Resolution and which are pending with this Department shall be returned back to the concerned Collector to examine these cases in the light of the said Government Resolution and, after such examination, they may, if required, make a reference to this Department certifying that the matter does not fall in clause 1 of said Government Resolution.

7. The Government Pleaders are instructed not to send directly the proposals to this Department without ascertaining whether the case is covered by Clause 1 of the Government Resolution and that they shall, immediately after pronouncement of award make an application for certified copies and as soon as certified copies are received,

they shall send the proposal to the concerned Collector to examine the case in the light of the said Government Resolution with a clear opinion as to capability for appeal.

This Government Circular of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference no. for this is 201708221642142612. This Circular has been signed digitally.

By order and in the name of the Governor of Maharashtra.

Rajendra D Sawant

Digitally signed by Rajendra D Sawant
DN: c=IN, o=Government Of Maharashtra, ou=Law And Judiciary, postalCode=400032, st=Maharashtra, 2.5.4.20=6c5df198d588de75e335db20487f4df45c73ec a4ce5875cd77fd8b1924a3fdf8, cn=Rajendra D Sawant
Date: 2017.08.22 16:32:09 +05'30'

(Rajendra D. Sawant)

Legal Advisor-Cum-Joint Secretary to Government

Copy forwarded to:-

1. The Joint Secretary, Revenue & Forest Department/A-4, Mantralaya, Mumbai.
2. The Government Advocate, Supreme Court, Maharashtra Sadan, Copernicus Marg, New Delhi-110001.
3. The Government Pleader, High Court (A.S.), Mumbai.
4. The Government Pleader, High Court (A.S.) (Writ Cell), Mumbai.
5. The Government Pleader, High Court (O.S.), Mumbai.
6. The Government Pleader, High Court, Nagpur.
7. The Government Pleader, High Court, Aurangabad.
8. All District Government Pleaders, Maharashtra.
9. The Joint Secretary, Law & Judiciary Department, Nagpur.
10. The Joint Secretary, Law & Judiciary Department, Aurangabad.